



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 83, 84, and 88

Docket No. USCG-2012-0102

RIN 1625-AB88

Changes to the Inland Navigation Rules, Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

---

SUMMARY: The Coast Guard is issuing this final rule to make non-substantive changes to its regulations. This final rule makes conforming amendments and technical corrections to the Coast Guard's Inland Navigation Rules. These changes will have no substantive effect on the regulated public.

DATES: This final rule is effective [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0102 and are available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may

also find this docket on the Internet by going to, inserting USCG-2012-0102 in the “Search” box, and then clicking “Search.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or e-mail Lieutenant Commander Megan L. Cull, Coast Guard; telephone 202-372-1565, e-mail [megan.l.cull@uscg.mil](mailto:megan.l.cull@uscg.mil). If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents for Preamble

- I. Abbreviations
- II. Regulatory History
- III. Basis and Purpose
- IV. Discussion of the Rule
- V. Regulatory Analyses
  - A. Regulatory Planning and Review
  - B. Small Entities
  - C. Assistance for Small Entities
  - D. Collection of Information
  - E. Federalism
  - F. Unfunded Mandates Reform Act
  - G. Taking of Private Property
  - H. Civil Justice Reform
  - I. Protection of Children
  - J. Indian Tribal Governments
  - K. Energy Effects
  - L. Technical Standards
  - M. Environment

##### I. Abbreviations

CFR	Code of Federal Regulations
COLREGS	Convention on the International Regulations for Preventing Collisions at Sea
DHS	Department of Homeland Security
E.O.	Executive Order
FR	<u>Federal Register</u>
OMB	Office of Management and Budget

Pub. L.        Public Law  
§                Section symbol  
U.S.C.        United States Code

## II.       Regulatory History

Under 5 U.S.C. 553(b)(A), the Coast Guard finds this final rule is exempt from notice and comment rulemaking requirements because the changes in this final rule involve rules of agency organization, procedure, or practice. Therefore, we did not publish a notice of proposed rulemaking for this final rule. Also, the Coast Guard finds for good cause that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B) because this final rule consists only of corrections and editorial, organizational, and conforming amendments. None of these changes will have substantive effect on the public. Under 5 U.S.C. 553(d)(3), we find that, for the same reasons, good cause exists for making this final rule effective upon publication in the Federal Register.

## III.      Basis and Purpose

This final rule is issued under the authority of 5 U.S.C. 552, 553, App. 2, 14 U.S.C. 2, 631, 632, and 633; Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); and Department of Homeland Security Delegation No. 0170.1.

The Coast Guard published a final rule entitled “Changes to the Inland Navigation Rules” in the Federal Register on July 2, 2014 (79 FR 37898). The July 2, 2014 rule amended the Coast Guard’s inland navigation rules in 33 CFR parts 83-88. The July 2, 2014 rule contained several non-substantive technical errors. This final rule, which becomes effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, makes technical and editorial corrections to 33 CFR parts 83, 84, and 88.

#### IV. Discussion of the Rule

This final rule amends the Inland Navigation Rules in 33 CFR parts 83, 84, and 88. Functional requirements, organizations and reporting structures are not affected by this final rule.

This final rule amends the table of contents in 33 CFR part 83 so that the title of § 83.30 reads, “Vessels anchored, aground and moored barges.”

This final rule amends § 83.06(a)(iv) to correct a typographical error. We are changing the word “shores” to the singular “shore.”

This final rule amends § 83.18(e) to correct a typographical error. The reference to “§ 83.4” is incorrect. We are changing the text to contain a reference to the appropriate “§ 83.04.” This final rule also amends § 83.18(f)(ii) to correct the same typographical error.

This final rule amends § 83.22(c) to correct an incorrectly numbered subparagraph (iv). We are changing § 83.22(c) so that it appropriately contains subparagraphs (i) through (vi).

This final rule amends § 83.24(g)(iii) to correct a typographical error. We are changing the word “Provided” so that it will no longer be capitalized.

This final rule amends § 83.27(b)(iii) to correct a typographical error. We are capitalizing the word “when” for consistency with the remainder of that paragraph.

This final rule amends § 83.27(e)(ii) to replace the word “insure” with “ensure” for consistency with the language in the COLREGS.

This final rule amends § 83.35(h) to correct a typographical error. The internal reference to paragraph (f) is incorrect. We are changing the text to contain a reference to the appropriate paragraph (g).

This final rule amends § 84.02(j) to insert the word “at” for grammatical clarity and consistency with the language in the COLREGS.

Finally, this final rule amends § 88.07(a) to capitalize the words “inland navigation rules.”

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

### A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The provisions of this final rule are technical and non-substantive; they will have no substantive effect on the public and will impose no additional costs. This final rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of

E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), rules exempt from the notice and comment requirements of the Administrative Procedure Act are not required to examine the impact of the rule on small entities. Nevertheless, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is no cost to this final rule, and we do not expect it to have an impact on small entities because the provisions of this rule are technical and non-substantive. It will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Mugo Macharia by phone at 202-372-1472 or via e-mail at [Mugo.Macharia@uscg.mil](mailto:Mugo.Macharia@uscg.mil). The Coast Guard will not retaliate against small entities that question or complain about

this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

E. Federalism

A rule has implications for federalism under E.O. 13132 ("Federalism") if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted

for inflation) or more in any 1 year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 (“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this final rule under E.O. 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This final rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This final rule does not have tribal implications under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects



We have analyzed this final rule under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB’s Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

#### L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 Note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2-1, paragraphs (34)(a) and (b) of the Instruction. This final rule involves regulations that are editorial or procedural, or that concern internal agency functions or organizations. An environmental analysis checklist and a categorical exclusion determination are available in the docket for this final rule where indicated under ADDRESSES.

#### List of Subjects

##### 33 CFR Part 83

Navigation (water), Waterways.

##### 33 CFR Part 84

Navigation (water), Waterways.

##### 33 CFR Part 88

Navigation (water), Waterways.

For the reasons discussed in the preamble, under the authority of 33 CFR 1.05—1, the Coast Guard amends 33 CFR parts 83, 84, and 88 as follows:

#### PART 83—RULES

1. The authority citation for part 83 continues to read as follows:

Authority: Sec. 303, Pub. L. 108-293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

##### § 83.06 [Amended]

2. In § 83.06, in paragraph (a)(iv), remove the word “shores” and add in its place the word “shore”.

##### § 83.18 [Amended]

3. In § 83.18, in paragraphs (e) and (f)(ii), remove the citation “§§ 83.4”, wherever it appears, and add in its place “§§ 83.04”.

4. In § 83.22, revise paragraph (c) to read as follows:

§ 83.22 Visibility of lights (Rule 22).

\* \* \* \* \*

(c) In a vessel of less than 12 meters in length--

(i) A masthead light, 2 miles;

(ii) A sidelight, 1 mile;

(iii) A sternlight, 2 miles;

(iv) A towing light, 2 miles;

(v) A white, red, green or yellow all-round light, 2 miles; and

(vi) A special flashing light, 2 miles.

\* \* \* \* \*

§ 83.24 [Amended]

5. In § 83.24, in paragraph (g)(iii), after the phrase “shall not exceed 100 meters:”, remove the word “Provided”, and add in its place the word “provided”.

§ 83.27 [Amended]

6. Amend § 83.27 as follows:

a. In paragraph (b)(iii), remove the word “when”, and add in its place the word “When”; and

b. In paragraph (e)(ii), remove the word “insure” and add in its place the word “ensure”.

7. Revise the heading for § 83.30 to read as follows:

§ 83.30 Vessels anchored, aground and moored barges (Rule 30).

\* \* \* \* \*

§ 83.35 [Amended]

8. In § 83.35, in paragraph (h), remove the words “paragraph (f)” and add in their place the words “paragraph (g)”.

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

9. The authority citation for part 84 continues to read as follows:

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 84.02 [Amended]

10. In § 84.02, in paragraph (j), after the phrase “when engaged in fishing shall be”, add the word “at”.

PART 88—ANNEX V: PILOT RULES

11. The authority citation for part 88 continues to read as follows:

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 88.07 [Amended]

12. In § 88.07, in paragraph (a), following the phrase “activities must abide by the”, remove the phrase “inland navigation rules” and add in its place the phrase “Inland Navigation Rules”.

Dated: November 13, 2014

Katia Cervoni  
Chief, Office of Regulations and Administrative Law  
U.S. Coast Guard

[FR Doc. 2014-27257 Filed 11/17/2014 at 8:45 am; Publication Date: 11/18/2014]